

**EXHIBIT A TO
DETROIT
EDISON'S BRIEF IN
SUPPORT OF
MOTION TO
STRIKE**

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,

Plaintiff,

v.

DTE ENERGY COMPANY and
DETROIT EDISON COMPANY,

Defendants. *

Civil Action No.
2:10-cv-13101-BAF-RSW

Judge Bernard A. Friedman

Magistrate Judge R. Steven Whalen

DECLARATION OF SKILES W. BOYD

I, Skiles W. Boyd, depose and say the following, based upon my own personal knowledge:

1. Since 1978, I have been employed by Detroit Edison Company ("Detroit Edison"), a wholly owned subsidiary of DTE Energy. Over the past several years, I have been generally responsible for managing the Environmental Management and Resources Organization for Detroit Edison's enterprise including all of the environmental issues related to Monroe Unit 2, a coal-fired generating unit located at Detroit Edison's Monroe plant in Monroe, Michigan. My current position is Vice President of Environmental Management and Resources.

2. In that capacity, I am a member of a management team that is responsible for ensuring a reliable and affordable supply of electricity to more than 2 million homes and businesses throughout southeastern Michigan. Detroit Edison serves this customer demand with a diverse mix of generating sources in Michigan totaling nearly 10,000 megawatts of capacity, including seven coal fired stations, two natural gas-fired stations, one nuclear station, and one hydroelectric station.

3. Detroit Edison's Monroe plant is located near Detroit, Michigan, where it has operated safely for nearly 40 years. It consists of four coal-fired electric generating units (Units 1-4) placed in service in the early 1970s, and each year produces approximately 35% of Detroit Edison's total electrical power and 44% of its total fossil power. The Monroe plant is one of the largest employers and taxpayers in Monroe County, Michigan, employing approximately 400 permanent employees and 100 long-term contract employees. Monroe County, however, remains one of the hardest hit areas in the United States during the recent economic recession, with unemployment rates recently reaching 16%.

4. As a regulated public utility under the jurisdiction of the Michigan Public Service Commission, Detroit Edison has a number of obligations. Among these obligations is the duty to maintain an adequate supply of generating capacity so that electricity is available upon demand at reasonable cost. A critical and necessary component of meeting that demand is the safe, reliable and continued operation of Monroe Unit 2. Monroe Unit 2 is a 795 MW unit that alone is responsible for serving over one hundred thousand residential customers and business in the region.

5. While providing this safe and reliable electricity at a reasonable cost, Detroit Edison also has substantially decreased its emissions, including of sulfur dioxide (SO₂) and nitrogen oxides (NO_x), over the years, and is currently decreasing them at an accelerated pace. At the Monroe plant in particular, Detroit Edison has reduced annual SO₂ emissions by approximately 63% and annual NO_x emissions by approximately 62% since the late 1970s. More recently, Detroit Edison has embarked on a \$2 billion program to install advanced SO₂ and NO_x controls at Monroe. In 2005-2006, Detroit Edison installed a second generation of low-NO_x burners on Monroe Units 1-4 (the first generation Low-NO_x burners were installed in the mid-

1990s). After several years of construction, Detroit Edison started operating Selective Catalytic Reduction (“SCR”) systems on Monroe Units 1 and 4 in 2004, and on Unit 3 in 2007; and Flue Gas Desulfurization (“FGD”) systems on Monroe Units 3 and 4 in 2009. Construction work has already started on FGDs for Monroe Units 1 and 2, with planned final connection and start-up in 2014. Finally, Detroit Edison plans to start construction on the Unit 2 SCR in 2011, with completion and start-up in 2014. When Detroit Edison’s \$2 billion controls plan is complete, all four Monroe units will be operating with low-NO_x burners, SCRs, and FGDs, creating one of the cleanest and most efficient coal-fired power plants in the country.

6. As Vice President of Environmental Management and Resources, I am familiar with the purpose of the recent maintenance and repair work at Monroe Unit 2, which I understand is at issue in this litigation. In particular, a coal-fired boiler is a complex collection of tubes and tube components (e.g., economizers, reheaters and superheaters) in which water is heated and turned to steam, which then turns a turbine to generate electricity. Because Detroit Edison’s facilities are subject to harsh operating conditions, including high temperatures and pressures, and must be available to provide electricity on demand, Detroit Edison frequently repairs and replaces deteriorating tubes and related components. Like every other electric utility company in the country, Detroit Edison thus regularly performs maintenance, repair and replacement activities to ensure its units run efficiently and safely and with minimal interruption of service and without injury to its workforce. To perform these activities, Detroit Edison, like every electric utility company in the country, periodically removes its generating units from service for up to three months to perform maintenance work, which cannot otherwise be completed with the unit in operation. This maintenance activity is scheduled to occur during

periods when the demand for electricity is less, like certain periods in the spring, so as to avoid the risk of interruption of service to our customers.

7. Before commencing such work, Detroit Edison submits a detailed planned outage notification to the Michigan Department of Natural Resources and the Environment (“MDNRE”), Detroit Edison’s state permitting authority. These notifications, which have been discussed with and are regularly submitted to MDNRE in accordance with the applicable regulations and with Detroit Edison policy, explain the scope and purpose of the project, the length of the particular outage, whether the project will result in any significant increase of emissions from the unit, and whether or not Detroit Edison believes the project triggers any permitting obligations under the Clean Air Act and/or Michigan’s State Implementation Plan, which govern certain emission sources within the State, including Monroe Unit 2. Detroit Edison regularly communicates with the MDNRE, and MDNRE was informed of the Monroe Unit 2 project before the final submission.

8. With respect to the work at Monroe Unit 2, which involved primarily economizers and reheater replacements, Detroit Edison sent such an outage notification to MDRNE before the work began, and explained why these activities (1) constituted routine maintenance, repair and replacement under EPA’s historic and Michigan’s interpretation of that term; and (2) would not result in a significant emissions increase. For these two independent reasons, Detroit Edison further explained that the work did not trigger any permitting obligations under the Clean Air Act and/or Michigan’s State Implementation Plan. MDNRE did not question Detroit Edison’s determination at the time it received Detroit Edison’s notification. Nor has MDNRE questioned it since that time. The work at Monroe Unit 2 commenced on or about March 13, 2010, and concluded on June 20, 2010. Monroe Unit 2 is currently operating.

9. In light of the parties' ongoing dispute and to alleviate any concern regarding any potential actual emission increases from Monroe Unit 2 during the dispute, barring unforeseen emergency circumstances, Detroit Edison will manage the operation of the unit to assure there is no increase in annual emissions from Monroe Unit 2 for any reason, even those clearly allowed by the regulations.

I declare under perjury that the foregoing is true and correct.

Executed this 17th day of August, 2010.

Skiles W. Boyd
Skiles W. Boyd

Subscribed and
sworn to before me on August 17, 2010.
Karyn Beth Teal

KARYN BETH TEAL
NOTARY PUBLIC, STATE OF MI.
COUNTY OF MACOMB
MY COMMISSION EXPIRES Jul 21, 2011
ACTING IN COUNTY OF Wayne